

### **REMARKS**

This responds to the Office Action mailed on January 25, 2008. Reconsideration is respectfully requested.

Claims 7 and 30 - 33 are amended, no claims are canceled, and no claims are added; as a result, claims 1 - 33 remain pending in this application.

#### **Supplemental Information Disclosure Statement**

Applicant submitted a Supplemental Information Disclosure Statement and a 1449 Form on January 25, 2008. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

#### **Allowable Subject Matter**

Claims 7, 8 and 30 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 7 and 30 has been amended to include the limitations of their base claim and any intervening claims and are believed to be in condition for allowance. Claim 8 is believed to be allowable at least because of its dependency on claim 7.

#### **§101 Rejection of the Claims**

Claims 31-33 were rejected under 35 U.S.C. § 101 because the original disclosure discloses machine readable medium as propagated signals in Paragraph [0054]. Applicant has amended the specification in paragraph [0054] to clarify embodiments directed to computer-readable medium. Claims 31 - 33 have also been amended to clearly recite statutory subject matter. Accordingly, Applicant submits that the rejection of claims 31 - 33 under 35 U.S.C. § 101 has been overcome.

§102 Rejection of the Claims

Claims 1-6, 9 and 22-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ido (U.S. 2006/0166634 A1). Ido has been cited by the Examiner under 35 U.S.C. § 102(e). The Ido reference is a US application publication of an International Application (IA) after national stage entry. Applicant submits that the Ito reference is not effective in the United States as of its international filing date because the international application did not publish in English. The WIPO publication of the IA was not published in Japanese, not English. Attached is the WIPO bibliographic data (one sheet) showing the publication language as Japanese, and the Derwent patent family data (10 sheets) showing the non-English publication dates as well as the first English publication date in 2007. In this situation, there is no 35 U.S.C. § 102(e) date (see MPEP 706.02(f) (1) and particularly example 5). Accordingly Applicant submits that the Ido reference cannot be applied under 35 U.S.C. § 102(e) and that the rejection of claims 1 – 6, 9 and 22 – 29 under 35 U.S.C. § 102(e) has been overcome.

The Ido reference is prior art as of its US publication date under 35 U.S.C. § 102(a) or (b) (see MPEP 706.02(f) (1)). Since the US publication date of Ido is July 27, 2006, Applicant submits that Ido cannot be applied to applicant's claims under 35 U.S.C. § 102(a) or (b) since Applicant's file date is December 29, 2003.

§103 Rejection of the Claims

Claims 10-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ido in view of Walton (U.S. 2003/0043732 A1). Since the Ido reference does not have 35 U.S.C. § 102(e) date as discussed above, and since Ido cannot be applied under 35 U.S.C. § 102(a) or (b), Ido does not qualify as prior art under 35 U.S.C. § 103(a). Accordingly, Applicant submits that the rejection of claims 10 – 21 under 35 U.S.C. § 103(a) has been overcome.

Claims 31-33 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Ido in view of Shao (U.S. 2004/0258174 A1). Since the Ido reference does not have 35 U.S.C. § 102(e) date as discussed above, and since Ido cannot be applied under 35 U.S.C. § 102(a) or (b),

Ido does not qualify as prior art under 35 U.S.C. § 103(a). Accordingly, Applicant submits that the rejection of claims 31 – 33 under 35 U.S.C. § 103(a) has been overcome.

Applicant submits that Shao (U.S. 2004/0258174 A1), is disqualified as prior art under 35 U.S.C. §102(e)/103 because at the time the present invention was made, both the Shao and the present invention were owned and were under an obligation of assignment to the same entity (see MPEP 706.02(I)(1)). Applicant has below provided a statement concerning common ownership.

According to the MPEP 706.02(I)(2), “Applications and references will be considered by the Examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the Applicant(s) or an attorney or agent or record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.”

#### **STATEMENT CONCERNING COMMON OWNERSHIP**

Application Serial Number 10/749,903 (the present application) and U.S. Patent Publication No. 2004/0258174 A1 (Shao) were, at the time the invention of Application 10/693,125 was made, owned by and under an obligation of assignment to Intel Corporation.

Accordingly, Applicant submits that the rejection of claims 31 – 33 under 35 U.S.C. § 103(a) has been overcome.

#### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant’s silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference.

Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.


### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((480) 659-3314) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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